

# Exhibit A

## Chapter 3

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### AN ACT

relating to censorship of or certain other interference with digital expression, including expression on social media platforms or through electronic mail messages.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The legislature finds that:

(1) each person in this state has a fundamental interest in the free exchange of ideas and information, including the freedom of others to share and receive ideas and information;

(2) this state has a fundamental interest in protecting the free exchange of ideas and information in this state;

(3) social media platforms function as common carriers, are affected with a public interest, are central public forums for public debate, and have enjoyed governmental support in the United States; and

(4) social media platforms with the largest number of users are common carriers by virtue of their market dominance.

SECTION 2. Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 120 to read as follows:

#### CHAPTER 120. SOCIAL MEDIA PLATFORMS

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 120.001. DEFINITIONS. In this chapter:

(1) "Social media platform" means an Internet website

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1 or application that is open to the public, allows a user to create  
2 an account, and enables users to communicate with other users for  
3 the primary purpose of posting information, comments, messages, or  
4 images. The term does not include:

5 (A) an Internet service provider as defined by  
6 Section 324.055;

7 (B) electronic mail; or

8 (C) an online service, application, or website:

9 (i) that consists primarily of news,  
10 sports, entertainment, or other information or content that is not  
11 user generated but is preselected by the provider; and

12 (ii) for which any chat, comments, or  
13 interactive functionality is incidental to, directly related to, or  
14 dependent on the provision of the content described by Subparagraph  
15 (i).

16 (2) "User" means a person who posts, uploads,  
17 transmits, shares, or otherwise publishes or receives content  
18 through a social media platform. The term includes a person who has  
19 a social media platform account that the social media platform has  
20 disabled or locked.

21 Sec. 120.002. APPLICABILITY OF CHAPTER. (a) This chapter  
22 applies only to a user who:

23 (1) resides in this state;

24 (2) does business in this state; or

25 (3) shares or receives content on a social media  
26 platform in this state.

27 (b) This chapter applies only to a social media platform

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1 that functionally has more than 50 million active users in the  
2 United States in a calendar month.

3 Sec. 120.003. CONSTRUCTION OF CHAPTER. This chapter may  
4 not be construed to limit or expand intellectual property law.

5 SUBCHAPTER B. DISCLOSURE REQUIREMENTS

6 Sec. 120.051. PUBLIC DISCLOSURES. (a) A social media  
7 platform shall, in accordance with this subchapter, publicly  
8 disclose accurate information regarding its content management,  
9 data management, and business practices, including specific  
10 information regarding the manner in which the social media  
11 platform:

12 (1) curates and targets content to users;

13 (2) places and promotes content, services, and  
14 products, including its own content, services, and products;

15 (3) moderates content;

16 (4) uses search, ranking, or other algorithms or  
17 procedures that determine results on the platform; and

18 (5) provides users' performance data on the use of the  
19 platform and its products and services.

20 (b) The disclosure required by Subsection (a) must be  
21 sufficient to enable users to make an informed choice regarding the  
22 purchase of or use of access to or services from the platform.

23 (c) A social media platform shall publish the disclosure  
24 required by Subsection (a) on an Internet website that is easily  
25 accessible by the public.

26 Sec. 120.052. ACCEPTABLE USE POLICY. (a) A social media  
27 platform shall publish an acceptable use policy in a location that



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1 is easily accessible to a user.

2 (b) A social media platform's acceptable use policy must:

3 (1) reasonably inform users about the types of content  
4 allowed on the social media platform;

5 (2) explain the steps the social media platform will  
6 take to ensure content complies with the policy;

7 (3) explain the means by which users can notify the  
8 social media platform of content that potentially violates the  
9 acceptable use policy, illegal content, or illegal activity, which  
10 includes:

11 (A) an e-mail address or relevant complaint  
12 intake mechanism to handle user complaints; and

13 (B) a complaint system described by Subchapter C;  
14 and

15 (4) include publication of a biannual transparency  
16 report outlining actions taken to enforce the policy.

17 Sec. 120.053. BIENNIAL TRANSPARENCY REPORT. (a) As part of  
18 a social media platform's acceptable use policy under Section  
19 120.052, the social media platform shall publish a biannual  
20 transparency report that includes, with respect to the preceding  
21 six-month period:

22 (1) the total number of instances in which the social  
23 media platform was alerted to illegal content, illegal activity, or  
24 potentially policy-violating content by:

25 (A) a user complaint;

26 (B) an employee of or person contracting with the  
27 social media platform; or

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1                    (C) an internal automated detection tool;

2                    (2) subject to Subsection (b), the number of instances  
3 in which the social media platform took action with respect to  
4 illegal content, illegal activity, or potentially policy-violating  
5 content known to the platform due to the nature of the content as  
6 illegal content, illegal activity, or potentially policy-violating  
7 content, including:

8                    (A) content removal;

9                    (B) content demonetization;

10                   (C) content deprioritization;

11                   (D) the addition of an assessment to content;

12                   (E) account suspension;

13                   (F) account removal; or

14                   (G) any other action taken in accordance with the  
15 platform's acceptable use policy;

16                   (3) the country of the user who provided the content  
17 for each instance described by Subdivision (2);

18                   (4) the number of coordinated campaigns, if  
19 applicable;

20                   (5) the number of instances in which a user appealed  
21 the decision to remove the user's potentially policy-violating  
22 content;

23                   (6) the percentage of appeals described by Subdivision  
24 (5) that resulted in the restoration of content; and

25                   (7) a description of each tool, practice, action, or  
26 technique used in enforcing the acceptable use policy.

27                   (b) The information described by Subsection (a)(2) must be

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categorized by:

(1) the rule violated; and

(2) the source for the alert of illegal content, illegal activity, or potentially policy-violating content, including:

(A) a government;

(B) a user;

(C) an internal automated detection tool;

(D) coordination with other social media platforms; or

(E) persons employed by or contracting with the platform.

(c) A social media platform shall publish the information described by Subsection (a) with an open license, in a machine-readable and open format, and in a location that is easily accessible to users.

#### SUBCHAPTER C. COMPLAINT PROCEDURES

Sec. 120.101. COMPLAINT SYSTEM. A social media platform shall provide an easily accessible complaint system to enable a user to submit a complaint in good faith and track the status of the complaint, including a complaint regarding:

(1) illegal content or activity; or

(2) a decision made by the social media platform to remove content posted by the user.

Sec. 120.102. PROCESSING OF COMPLAINTS. A social media platform that receives notice of illegal content or illegal activity on the social media platform shall make a good faith effort



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1 to evaluate the legality of the content or activity within 48 hours  
2 of receiving the notice, excluding hours during a Saturday or  
3 Sunday and subject to reasonable exceptions based on concerns about  
4 the legitimacy of the notice.

5 Sec. 120.103. REMOVAL OF CONTENT; EXCEPTIONS. (a) Except  
6 as provided by Subsection (b), if a social media platform removes  
7 content based on a violation of the platform's acceptable use  
8 policy under Section 120.052, the social media platform shall,  
9 concurrently with the removal:

10 (1) notify the user who provided the content of the  
11 removal and explain the reason the content was removed;

12 (2) allow the user to appeal the decision to remove the  
13 content to the platform; and

14 (3) provide written notice to the user who provided  
15 the content of:

16 (A) the determination regarding an appeal  
17 requested under Subdivision (2); and

18 (B) in the case of a reversal of the social media  
19 platform's decision to remove the content, the reason for the  
20 reversal.

21 (b) A social media platform is not required to provide a  
22 user with notice or an opportunity to appeal under Subsection (a) if  
23 the social media platform:

24 (1) is unable to contact the user after taking  
25 reasonable steps to make contact; or

26 (2) knows that the potentially policy-violating  
27 content relates to an ongoing law enforcement investigation.



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Sec. 120.104. APPEAL PROCEDURES. If a social media platform receives a user complaint on the social media platform's removal from the platform of content provided by the user that the user believes was not potentially policy-violating content, the social media platform shall, not later than the 14th day, excluding Saturdays and Sundays, after the date the platform receives the complaint:

(1) review the content;

(2) determine whether the content adheres to the platform's acceptable use policy;

(3) take appropriate steps based on the determination under Subdivision (2); and

(4) notify the user regarding the determination made under Subdivision (2) and the steps taken under Subdivision (3).

#### SUBCHAPTER D. ENFORCEMENT

Sec. 120.151. ACTION BY ATTORNEY GENERAL. (a) The attorney general may bring an action against a social media platform to enjoin a violation of this chapter.

(b) If an injunction is granted in an action brought under Subsection (a), the attorney general may recover costs incurred in bringing the action, including reasonable attorney's fees and reasonable investigative costs.

SECTION 3. The heading to Chapter 321, Business & Commerce Code, is amended to read as follows:

CHAPTER 321. REGULATION OF [~~CERTAIN~~] ELECTRONIC MAIL

SECTION 4. Section 321.001, Business & Commerce Code, is amended by adding Subdivision (4-a) to read as follows:

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1           (4-a) "Malicious computer code" means an unwanted  
2 computer program or other set of instructions inserted into a  
3 computer's memory, operating system, or program that:

4           (A) is specifically constructed with the ability  
5 to replicate itself or to affect the other programs or files in the  
6 computer by attaching a copy of the unwanted program or other set of  
7 instructions to one or more computer programs or files; or

8           (B) is intended to perform an unauthorized  
9 process that will adversely impact the confidentiality of  
10 information contained in or the integrity or availability of the  
11 computer's memory, operating system, or program.

12         SECTION 5. Subchapter B, Chapter 321, Business & Commerce  
13 Code, is amended by adding Section 321.054 to read as follows:

14         Sec. 321.054. IMPEDING ELECTRONIC MAIL MESSAGES  
15 PROHIBITED. An electronic mail service provider may not  
16 intentionally impede the transmission of another person's  
17 electronic mail message based on the content of the message unless:

18           (1) the provider is authorized to block the  
19 transmission under Section 321.114 or other applicable state or  
20 federal law; or

21           (2) the provider has a good faith, reasonable belief  
22 that the message contains malicious computer code, obscene  
23 material, material depicting sexual conduct, or material that  
24 violates other law.

25         SECTION 6. Section 321.105(a), Business & Commerce Code, is  
26 amended to read as follows:

27         (a) In lieu of actual damages, a person injured by a

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violation of this chapter arising from the transmission of an unsolicited or commercial electronic mail message or by a violation of Section 321.054 may recover an amount equal to the lesser of:

(1) \$10 for each unlawful message or each message unlawfully impeded, as applicable; or

(2) \$25,000 for each day the unlawful message is received or the message is unlawfully impeded, as applicable.

SECTION 7. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 143A to read as follows:

CHAPTER 143A. DISCOURSE ON SOCIAL MEDIA PLATFORMS

Sec. 143A.001. DEFINITIONS. In this chapter:

(1) "Censor" means to block, ban, remove, deplatform, demonetize, de-boost, restrict, deny equal access or visibility to, or otherwise discriminate against expression.

(2) "Expression" means any word, music, sound, still or moving image, number, or other perceivable communication.

(3) "Receive," with respect to an expression, means to read, hear, look at, access, or gain access to the expression.

(4) "Social media platform" has the meaning assigned by Section 120.001, Business & Commerce Code.

(5) "Unlawful expression" means an expression that is unlawful under the United States Constitution, federal law, the Texas Constitution, or the laws of this state, including expression that constitutes a tort under the laws of this state or the United States.

(6) "User" means a person who posts, uploads, transmits, shares, or otherwise publishes or receives expression,



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1 through a social media platform. The term includes a person who has  
2 a social media platform account that the social media platform has  
3 disabled or locked.

4 Sec. 143A.002. CENSORSHIP PROHIBITED. (a) A social media  
5 platform may not censor a user, a user's expression, or a user's  
6 ability to receive the expression of another person based on:

7 (1) the viewpoint of the user or another person;

8 (2) the viewpoint represented in the user's expression  
9 or another person's expression; or

10 (3) a user's geographic location in this state or any  
11 part of this state.

12 (b) This section applies regardless of whether the  
13 viewpoint is expressed on a social media platform or through any  
14 other medium.

15 Sec. 143A.003. WAIVER PROHIBITED. (a) A waiver or  
16 purported waiver of the protections provided by this chapter is  
17 void as unlawful and against public policy, and a court or  
18 arbitrator may not enforce or give effect to the waiver, including  
19 in an action brought under Section 143A.007, notwithstanding any  
20 contract or choice-of-law provision in a contract.

21 (b) The waiver prohibition described by Subsection (a) is a  
22 public-policy limitation on contractual and other waivers of the  
23 highest importance and interest to this state, and this state is  
24 exercising and enforcing this limitation to the full extent  
25 permitted by the United States Constitution and Texas Constitution.

26 Sec. 143A.004. APPLICABILITY OF CHAPTER. (a) This chapter  
27 applies only to a user who:



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1           (1) resides in this state;

2           (2) does business in this state; or

3           (3) shares or receives expression in this state.

4           (b) This chapter applies only to expression that is shared  
5 or received in this state.

6           (c) This chapter applies only to a social media platform  
7 that functionally has more than 50 million active users in the  
8 United States in a calendar month.

9           (d) This chapter applies to the maximum extent permitted by  
10 the United States Constitution and the laws of the United States but  
11 no further than the maximum extent permitted by the United States  
12 Constitution and the laws of the United States.

13           Sec. 143A.005. LIMITATION ON EFFECT OF CHAPTER. This  
14 chapter does not subject a social media platform to damages or other  
15 legal remedies to the extent the social media platform is protected  
16 from those remedies under federal law.

17           Sec. 143A.006. CONSTRUCTION OF CHAPTER. (a) This chapter  
18 does not prohibit a social media platform from censoring expression  
19 that:

20           (1) the social media platform is specifically  
21 authorized to censor by federal law;

22           (2) is the subject of a referral or request from an  
23 organization with the purpose of preventing the sexual  
24 exploitation of children and protecting survivors of sexual abuse  
25 from ongoing harassment;

26           (3) directly incites criminal activity or consists of  
27 specific threats of violence targeted against a person or group

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because of their race, color, disability, religion, national origin  
or ancestry, age, sex, or status as a peace officer or judge; or

(4) is unlawful expression.

(b) This chapter may not be construed to prohibit or  
restrict a social media platform from authorizing or facilitating a  
user's ability to censor specific expression on the user's platform  
or page at the request of that user.

(c) This chapter may not be construed to limit or expand  
intellectual property law.

Sec. 143A.007. USER REMEDIES. (a) A user may bring an  
action against a social media platform that violates this chapter  
with respect to the user.

(b) If the user proves that the social media platform  
violated this chapter with respect to the user, the user is entitled  
to recover:

(1) declaratory relief under Chapter 37, including  
costs and reasonable and necessary attorney's fees under Section  
37.009; and

(2) injunctive relief.

(c) If a social media platform fails to promptly comply with  
a court order in an action brought under this section, the court  
shall hold the social media platform in contempt and shall use all  
lawful measures to secure immediate compliance with the order,  
including daily penalties sufficient to secure immediate  
compliance.

(d) A user may bring an action under this section regardless  
of whether another court has enjoined the attorney general from

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1 enforcing this chapter or declared any provision of this chapter  
2 unconstitutional unless that court decision is binding on the court  
3 in which the action is brought.

4 (e) Nonmutual issue preclusion and nonmutual claim  
5 preclusion are not defenses to an action brought under this  
6 section.

7 Sec. 143A.008. ACTION BY ATTORNEY GENERAL. (a) Any person  
8 may notify the attorney general of a violation or potential  
9 violation of this chapter by a social media platform.

10 (b) The attorney general may bring an action to enjoin a  
11 violation or a potential violation of this chapter. If the  
12 injunction is granted, the attorney general may recover costs and  
13 reasonable attorney's fees incurred in bringing the action and  
14 reasonable investigative costs incurred in relation to the action.

15 SECTION 8. (a) Mindful of *Leavitt v. Jane L.*, 518 U.S. 137  
16 (1996), in which in the context of determining the severability of a  
17 state statute the United States Supreme Court held that an explicit  
18 statement of legislative intent is controlling, it is the intent of  
19 the legislature that every provision, section, subsection,  
20 sentence, clause, phrase, or word in this Act, and every  
21 application of the provisions in this Act, are severable from each  
22 other.

23 (b) If any application of any provision in this Act to any  
24 person, group of persons, or circumstances is found by a court to be  
25 invalid or unconstitutional, the remaining applications of that  
26 provision to all other persons and circumstances shall be severed  
27 and may not be affected. All constitutionally valid applications



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1 of this Act shall be severed from any applications that a court  
2 finds to be invalid, leaving the valid applications in force,  
3 because it is the legislature's intent and priority that the valid  
4 applications be allowed to stand alone.

5 (c) If any court declares or finds a provision of this Act  
6 facially unconstitutional, when discrete applications of that  
7 provision can be enforced against a person, group of persons, or  
8 circumstances without violating the United States Constitution and  
9 Texas Constitution, those applications shall be severed from all  
10 remaining applications of the provision, and the provision shall be  
11 interpreted as if the legislature had enacted a provision limited  
12 to the persons, group of persons, or circumstances for which the  
13 provision's application will not violate the United States  
14 Constitution and Texas Constitution.

15 (d) The legislature further declares that it would have  
16 enacted this Act, and each provision, section, subsection,  
17 sentence, clause, phrase, or word, and all constitutional  
18 applications of this Act, irrespective of the fact that any  
19 provision, section, subsection, sentence, clause, phrase, or word,  
20 or applications of this Act, were to be declared unconstitutional.

21 (e) If any provision of this Act is found by any court to be  
22 unconstitutionally vague, the applications of that provision that  
23 do not present constitutional vagueness problems shall be severed  
24 and remain in force.

25 (f) No court may decline to enforce the severability  
26 requirements of Subsections (a), (b), (c), (d), and (e) of this  
27 section on the ground that severance would rewrite the statute or



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1 involve the court in legislative or lawmaking activity. A court  
2 that declines to enforce or enjoins a state official from enforcing  
3 a statutory provision does not rewrite a statute, as the statute  
4 continues to contain the same words as before the court's decision.  
5 A judicial injunction or declaration of unconstitutionality:

6 (1) is nothing more than an edict prohibiting  
7 enforcement that may subsequently be vacated by a later court if  
8 that court has a different understanding of the requirements of the  
9 Texas Constitution or United States Constitution;

10 (2) is not a formal amendment of the language in a  
11 statute; and

12 (3) no more rewrites a statute than a decision by the  
13 executive not to enforce a duly enacted statute in a limited and  
14 defined set of circumstances.

15 SECTION 9. Chapter 143A, Civil Practice and Remedies Code,  
16 as added by this Act, applies only to a cause of action that accrues  
17 on or after the effective date of this Act.

18 SECTION 10. This Act takes effect on the 91st day after the  
19 last day of the legislative session.

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President of the Senate

  
Speaker of the House

I certify that H.B. No. 20 was passed by the House on August 30, 2021, by the following vote: Yeas 77, Nays 49, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 20 on September 2, 2021, by the following vote: Yeas 78, Nays 42, 1 present, not voting.

  
Chief Clerk of the House

I certify that H.B. No. 20 was passed by the Senate, with amendments, on August 31, 2021, by the following vote: Yeas 17, Nays 14.

  
Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
7 pm O'CLOCK

SEP 09 2021

  
Secretary of State